

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP No. 19863 of 2013. [O&M]
Date of Decision: 28th January, 2016.

Harpreet Kaur
Versus
Petitioner through
Mr. J.S. Bhatti, Advocate

State of Punjab & Ors.
Respondents through
Mr. Rajesh Bhardwaj, Addl. AG, Punjab.
Mr. G.S. Attariwala, Advocate for
respondent No. 5.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

SURYA KANT, J. [ORAL]

The petitioner seeks a *mandamus* to direct the State of Punjab and authorities of Amritsar District including Amritsar Improvement Trust to allot Shop No. 90, Second Floor, Nehru Shopping Complex, Lawrence Road, Amritsar to her in the category of '1984-Anti Sikh Riot Victims' and also to take action on various representations and complaints submitted by her. The petitioner claims herself to be a victim of 1984 riots, who migrated from Delhi to Amritsar. She relies upon the Government Policy dated 24.12.1985 and such like other policies framed by the State/Central Governments extending benefits to the riot victims including allotment of 20% commercial sites and MIG/LIG/HIG houses in the State of Punjab.

[2]. The petitioner claims to have occupied Shop No. 90, Second Floor, Nehru Shopping Complex, Lawrence Road, Amritsar

where she started running her office. However, the Improvement Trust authorities started harassing her against which she made various complaints including to Police Administration but finding no action as well as denial of allotment of that shop to her, the instant writ petition has been filed.

[3]. When this petition came up for hearing on 09.09.2013, the petitioner was directed to produce a complete copy of Red Card known as 'Identification Card of Sikh Migrants' issued to her father. The same having been placed on record, she was directed on 04.10.2013 to file an affidavit to the effect that "*Shri Sukhwinder Singh, father of the petitioner, had not availed any benefit under the Riot Affected Policy*". On filing of such an affidavit, the respondents were called upon and after hearing counsel for the parties, the following order was passed by this Court on 15.01.2015:-

"The petitioner was a minor of 4 years in the year 1984 when her family suffered in Anti Sikh Riots. As per the respondents, the father of the petitioner has been allotted Plot No.640-D measuring 250 square yards in Ranjit Avenue, Amritsar vide letter of allotment dated 28.12.2011 (Annexure R-5/1) as a riot victim.

On the other hand, the petitioner claims to be in illegal possession of Shop No.90, Second Floor, Nehru Shopping Complex, Amritsar and seeks allotment of that shop.

The argument of learned counsel for the petitioner is that Plot No.640-D was not allotted to her father as a Riot victim but as a General category candidate.

He seeks some time to produce copy of the letter of allotment and also the advertisement in pursuance of which her father applied for allotment of plot since

allotted to him.....”.

[4]. We have heard learned counsel for the parties at a considerable length and gone through the record.

[5]. It is a fact that the plight of 1984 Riots Affected Persons was taken notice of by one of us [Surya Kant, J.] in **CWP No. 16345 of 2009 [Kuljit Singh & Ors. Vs. State of Punjab & Anr.]** [P-12] and other connected matters wherein this Court found that despite loud proclamations made through various Government Policies, the affected persons were not being granted the due benefits for want of desired commitment to the cause. This Court, thus, formulated the following issues:-

“[i]. The District Administration is obligated and must compile the list of identified and bona fide ‘riot-affected victims’ and see as to whether or not any Red Card has been issued to them?

[ii]. Whether or not the petitioners are amongst the bona fide ‘riot-affected victims’? If so, have they already availed any benefit of the Government policies relied upon by them?

[iii]. What kind of concessional assistance/help has already been availed by the identified/bona fide 1984-riots victims including other than the petitioners, who are settled in SAS Nagar, Mohali?”

[6]. It was further observed that *“.....if any dwelling unit/booth or other immovable property(ies) has already been allotted to anyone of riot-affected victims on concessional rates, the respondent-authorities would be well within their right in dispossessing such beneficiary from illegally occupied flat(s) as the Government concession cannot be claimed time and again by him/them”.* The directions were then issued to the District Administration to constitute a Committee to undertake the exercise of identifying all

bona-fide 1984 Riot Affected victims who were still running from pillar to post to avail benefits under the Government policies. After undertaking such an exercise, there was further time-bound direction issued for allotment of dwelling units etc.

[7]. The State Authorities unsuccessfully challenged those directions in Letters Patent Appeal which was disposed of by a Division Bench vide order dated 15.02.2011, with certain additional directions and clarifications. The State Authorities are, thus, under a legal obligation to faithfully comply with those directions; identify the riot victims and extend the due benefits under different policies, especially re: allotment of dwelling units or commercial booths etc.

[8]. Whether the Authorities have failed in the instant case to follow those directions?

[9]. The Improvement Trust has filed its written statement categorically averring that the petitioner's father [Shri Sukhwinder Singh] being riot-affected has been allotted residential Plot [measuring 250 square yards] No. 640-D, Ranjit Avenue, Amritsar vide allotment letter dated 28.12.2011 [R5/1]. The allotment letter expressly recites that the above stated plot was allotted to him under "Sikh/NRI affected by Terrorism Category" in terms of the Trust's Resolution No. 78 dated 22.03.2011 duly approved by the State Government. It is averred in the written statement that the above stated resolution pertained to allotment of residential sites to the riot affected persons.

[10]. The written statement further discloses as follows:-

"3. That in the present case, the father of petitioner

namely Sukhwinder Singh was allotted one residential Plot No. 640-D in Ranjit Avenue, Amritsar, measuring 250 sq. yards vide allotment letter dated 28.12.2011 [Annexure R5/1] as per his entitlement but the petitioner in connivance with her father had forcefully occupied the property in question. The Improvement Trust following the directions of this Hon'ble Court passed in CWP No. 16345 of 2009 dispossessed the petitioner from the aforesaid property i.e. Shop No. 90, Second Floor, Nehru Shopping Complex, Amritsar and the father of the petitioner namely Sukhwinder Singh after handing over the possession of the property to the Improvement Trust also filed an application addressed to the Chairman, Improvement Trust along with the affidavit duly attested that his belongings recovered from the premises may be returned back to him and has further stated on oath that he shall not occupy any shop illegally of Improvement Trust Amritsar. All these aforesaid facts have been concealed by the petitioner. The petitioner and her father had encroached upon the property of Improvement Trust and the Trust was right in dispossessing them". [Emphasis applied].

[11]. It is further averred that the petitioner has prepared a forged letter dated 23.11.2012 on behalf of the Improvement Trust claiming allotment of Shop No. 90 to her. It was on the basis of that forged letter that the electric-connection was got installed. It is further averred that a complaint was made to the police authorities against the petitioner and her father.

[12]. Be that as it may, it stands established that the petitioner's father has been allotted a residential plot in the special category of 'Riot-Affected Persons'. The policy does not contemplate

allotment of separate immovable properties to every family member, especially when such family member does not constitute an independent family unit.

[13]. The petitioner's individual entitlement for allotment of a commercial or residential property has to be viewed in the light of the facts brought to the notice of this Court and as noticed in the order dated 15.01.2015, reproduced above. It is revealed that the petitioner was a minor, aged about four years in the year 1984 when her family suffered the brunt of anti-Sikh riots. In fact, the Red Card-cum-Identification Card issued to her family as Sikh Migrants [her father as the head of family] [P-1] reveals the petitioner's date of birth as '04.07.1982', which means that she was hardly two years old when the unfortunate riots took place. Having settled down in Amritsar in the year 1984-86, where the petitioner attained majority, she might have constituted a separate 'family unit', but this would not by itself make her a victim of the 1984 Anti-Sikh riots. For this reason alone no separate 'Red Card' or 'Identification Card' was issued to the petitioner as her family as a unit has already got the benefit of allotment of a residential plot.

[14]. The policy can not be twisted either out of misplaced sympathy or for equitable considerations. There are hundreds of riots victims. Many of them are still awaiting in queue for their turn to come. If all the available residential or commercial properties are allowed to be hoarded in the hands of few families, it would be surely at the cost of other equally or may be more deserving persons. There must be and ought to be equitable distribution of such concessional

assets amongst all eligible and deserving families. Any deviation there-from and undue allotment within a family would lead to inequalities and will surely militate against the philosophy of Article 14 of the Constitution of India.

[15]. While we do not deem it necessary to go into the allegations levelled by the Trust that the petitioner forged any letter out of greed to retain and for regularisation of the possession of commercial property, as it may lead to unwanted harassment to her, suffice it would be to remind the petitioner that once her father has been allotted a property in the special category, none of her family members is entitled to the repetition of such benefit. We have no reason to doubt that the petitioner and her family would reconcile and understand the plight of other riot-victims, leaving something for them as well, failing which the law must take its own course.

[16]. There is, however, one aspect of the matter which requires consideration. Mr. Bhatti, learned counsel for the petitioners states that the plot allotted to the petitioner's father is not at the "concessional rate". We do not express any views on this aspect for two reasons. Firstly, there is nothing on record to suggest that there was any concessional rate prescribed for allotment of plots in question and whether any other riot-victim has been allotted a plot in the same locality at such a concessional rate. Secondly, the petitioner's father is not before us. However, if he is entitled to any concession in the rate of allotment of the plot, this order would not foreclose his rights and he may approach the competent authority in this regard. If he is entitled to allotment of the plot at a price which

ought to be 20% less than the reserved price, we grant him liberty to represent the competent Authority, who, we have no reason to doubt, shall consider his claim dispassionately, in accordance with the Government policies and without being influenced by the outcome of this writ petition. As and when such a claim is raised, the Authorities are directed to decide the same within four months.

[17]. Civil Misc. No. 13884 of 2014 was ordered to be heard along with the main case. For the reasons mentioned above, no separate orders are required to be passed on the said civil miscellaneous application, which is accordingly dismissed.

[18]. Disposed of. Dasti.

(SURYA KANT)
JUDGE

January 28, 2016.
dinesh

(P.B.BAJANTHRI)
JUDGE